

REMARKS

Claims 1-4 and 6-16 are pending in the present application with claims 2, 3, and 7-12 having been withdrawn from further consideration. Claims 1, 6, and 15 have been amended by the present communication. Supports for the amendment can be found, for example, line 16 on page 4, lines 2-3 on page 29 (in Example 2), and lines 16-19 on page 32 (in Example 4) of the specification. Accordingly, upon entry of the present communication, claims 1, 4, 6, and 13-16 will be under consideration.

Rejections under 35 U.S.C. §102

Claims 1, 4, 6, 15 and 16 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Saffman *et al.* (*Proc. Natl. Acad. Sci.* 2004 91:7420-7424; 157:650-655). Applicant respectfully traverses the rejection.

The Examiner asserts that “Saffman *et al.* teach fusion proteins comprising different regulatory elements of 3 different homeotic proteins, ultrabithorax (UBX), abdominal-A (ABD-A), and antennapedia (ANTP).” *See* lines 4-6, page 3 of the Office Action dated July 23, 2010. The Examiner relies on Fig. 3 of Saffman *et al.* for the anticipation rejection. In particular, the Examiner discusses fusions proteins UAU, UAA, and *UU as depicted in Fig. 3 of Saffman *et al.* *See* lines 8-17, page 3 of the Office Action dated July 23, 2010.

Further, the Examiner asserts that the reason for Saffman *et al.* to make the fusion proteins are not germane to the rejection, stating that:

“Applicants conclude that the protein fragments of Saffman *et al.* are all naturally associated. In response, the ultrabithorax (UBX), abdominal-A (ABD-A), and antennapedia (ANTP) proteins are homeotic proteins which are a family of related *but distinct developmental regulators* that specify the differences in the body segments of drosophila. Therefore, these proteins are not naturally associated as a fusion protein because they are distinct proteins. The reason for Saffman *et al.* to make the fusion proteins are not germane to the rejection.” [emphasis original].

Line 16 on page 4 to line 2 on page 5 of the Office Action dated July 23, 2010.

“[A]nticipation requires that the four corners of a single, prior art document describe every element of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation.”

Advanced Display Systems, Inc. v. Kent State University, 212 F.3d 1272, 1282 (Fed. Cir. 2000). “Anticipation requires identity of invention. The claimed invention, as described in appropriately construed claims, must be the same as that of the reference in order to anticipate.” *Glaverbel Societe Anonyme v. Northlake Marketing & Supply Inc.*, 45 F.3d 1550, 1554 (Fed. Cir. 1995).

Applicant respectfully traverses the Examiner’s assertions. Without acquiescing to the Examiner’s assertions and to expedite prosecution of the claimed invention, claim 1 has been amended to recite the phrase “a second region at the C-terminus of the first region.” Applicant submits that none of the fusion proteins disclosed in Saffman *et al.* show a conjugate having a homeodomain of antennapedia at the amino terminal end and a second region of at least 100 amino acids at its carboxyl end. Therefore, Saffman *et al.* does not teach or suggest each and every element of the currently amended claim 1.

Since Saffman *et al.* is completely silent with regard to a conjugate having a first region comprising the homeodomain of antennapedia and a second region of at least 100 amino acids at its C-terminus, Saffman *et al.* fails to anticipate the claimed invention. Accordingly, withdrawal of the anticipation rejection is respectfully requested.

Rejections under 35 U.S.C. §112, Second Paragraph

Claim 6 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite because of being a dependent claim of a cancelled claim (claim 5).

Claim 6 has been amended as a dependent claim of claim 1. Accordingly, withdrawal of the indefinite rejection is respectfully requested.

In re Application of:
Andrea Crisanti.
Application No.: 10/789,403
Filed: February 27, 2004
Page 6

PATENT
Attorney Docket No.: TROJAN1100-1

CONCLUSION

In view of the amendments and above remarks, it is submitted that the claims are in condition for allowance, and a notice to that effect is respectfully requested. The Examiner is invited to contact Applicants' undersigned representative if there are any questions relating to this application.

The Commissioner is hereby authorized to charge \$555 as payment for the Petition for Three-Month Extension of Time fee and \$405 as payment for the Request for Continued Examination Fee to Deposit Account No. 07-1896. No other fee is believed to be due in connection with this submission. However, the Commissioner is hereby authorized to charge any other fees associated with the filing submitted herewith, or credit any overpayment, to Deposit Account No. 07-1896 referencing the above-identified attorney docket number.

Respectfully submitted,



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Date: January 21, 2011

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